



WILLIAM T FUJIOKA
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

September 8, 2009

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**COST RECOVERY AGREEMENT FOR VARIOUS SPECIAL USE PERMITS WITH
THE FOREST SERVICE AND REQUEST OF DELEGATED AUTHORITY TO ENTER
INTO GRATIS PERMITS/LICENSES FOR VARIOUS COUNTY DEPARTMENTS
(ALL DISTRICTS) (3 VOTES)**

SUBJECT

This recommendation is for approval of a Cost Recovery Agreement for a ten-year term, to reimburse the United States Department of Agriculture Forest Service (USDAFS) for their costs in processing special use permits and licenses for County use of various sites within their jurisdiction and delegation of authority to the Chief Executive Officer (CEO) to enter into those special use permits or licenses for terms of up to 30 years on a gratis basis.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the Agreement and the ensuing permits and licenses, to the extent that they are renewals of existing agreements, are exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Class 1, Section r, (Existing Facilities) of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15301 of the State CEQA Guidelines. (For a new application for a permit or license, the proposed project will be evaluated for compliance with the CEQA procedures.)
2. Approve and instruct the Chairman to execute the Agreement in the total estimated amount of \$140,000 over the ten-year term, subject to adjustments by the USDAFS based on actual time spent and authorize the CEO to increase the payment to the USDAFS, pursuant to the Agreement up to a maximum of \$200,000 to cover any excess hours required for processing or monitoring, pursuant to Federal laws.

"To Enrich Lives Through Effective And Caring Service"

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First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

3. Delegate authority to the CEO to enter into permit or license agreements with the USDAFS for individual terms of up to 30 years for the various sites on a gratis basis.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The County has entered into various permits and licenses agreements for the right to use various land parcels owned by the USDAFS for various reasons, including telecommunications sites, road rights-of-way, water storage tanks, probation camps, and other uses. These sites are serving various County departments including Internal Services, Sheriff, Fire, Probation, and others.

Pursuant to a recent Federal law, USDAFS is now required to recover upfront all costs that it incurs reviewing submitted applications, conducting environmental analyses, application authorizations and the issuance of permits and licenses. The USDAFS estimates the processing costs for County applications to be approximately \$14,000 annually, or \$140,000 over the ten-year term. Should the actual costs exceed the estimated fees, USDAFS, by law, reserves the right to bill for the additional cost.

The second recommendation herein allows the CEO to increase the payment, up to a maximum of \$200,000 over the term, if excess hours are needed to process or monitor the permits and licenses. These fees cover all current and expected applications during the term as indicated on Appendix A to the Agreement. The applications envisioned by this Agreement exclude the processing of applications generated by Public Works or any County-related Special Districts.

The actual contracts for the utilization of the sites, including both existing and new spaces, are expected to be on gratis basis for a term of up to 30 years, and will be in the form of a permit or license as Federal policies may dictate. The third recommendation herein provides the CEO the delegated authority to enter into the licenses and permits with the USDAFS for the various sites. All requests by County departments for permit or license agreements with the USDAFS will be reviewed by the CEO, in accordance with the standard procedures, to insure compliance with set policies and standards.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs that we maximize the effectiveness of the County's processes to support timely delivery and efficient public services (Goal 1) and that we ensure the committed efforts to maintain and improve the safety and security of the people of Los Angeles County (Goal 5). The recommended Board actions will support these goals by allowing the County to secure the sites needed by the various departments in a timely and effective manner.

FISCAL IMPACT/FINANCING

As mandated by a new Federal law, USDAFS estimates its processing fees for the various County applications to be \$14,000 annually or a total of \$140,000 over the ten-year term of the Agreement. This cost is 100 percent net County cost.

	COST RECOVERY AGREEMENT	SPECIAL USE PERMITS AND LICENSES
Term (years)	Approximately 10 years	Expected to be up to 30 years
Annual Fee	\$14,000 (estimated), subject to adjustments based on actual time spent	Gratis
Utilities, Repair & Maintenance	Not Applicable	Paid by the County
Option To Extend Permit Term	Not Applicable	None

Sufficient funding is available in the Rent Expense budget for 2009-10 to cover the fees of the Agreement.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The proposed Agreement contains the following legal provisions:

- Fees for the first year to be paid quarterly and subsequent estimated fees to be paid within 30 days from billing.
- Statement of actual costs to be provided annually by the USAFS. Overpayment or underpayment to be refunded or paid annually.
- No administrative appeal right except to the immediate supervisor of the officer.
- The Agreement may be cancelled by either party at anytime.

In compliance with Federal laws, the following are standard provisions in permits and licenses issued by the USDAFS:

- The permit or license may be terminated or amended at any time to include new terms, conditions or stipulation by the USDAFS. Decisions by a Federal Officer are subject to appeal.
- The permits and licenses do not contain a direct provision allowing the County to cancel. However, a procedure under Federal laws allows the County to file a "Holder Initiated Revocation of Existing Authorization" which provides a process for the County to revoke the permit or license.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

In accordance with your Board's policy on the housing of any County offices or activities, the County departments (ISD, Sheriff, Fire and Probation) that are involved with the majority of the pending applications were consulted, and they concur with this recommendation.

ENVIRONMENTAL DOCUMENTATION

The CEO has performed an initial study of environmental factors and has concluded the Agreement and the ensuing permits and licenses, to the extent that they are renewals of existing agreements, are exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Class 1, Section r, (Existing Facilities) of the Environmental Document Reporting Procedures and Guidelines adopted by your Board on November 17, 1987, and Section 15301 of the State CEQA Guidelines. For a new application for a permit or license, the proposed project will be evaluated for compliance with the CEQA procedures. Additionally, the USDAFS will require environmental analysis under Federal laws for all new applications, to be prepared under its supervision.

CONCLUSION

It is requested that the Executive Officer, Board of Supervisors, return two adopted, stamped Board letters, two original executed agreement and two certified copies of the Minute Order to the CEO, Real Estate Division, 222 South Hill Street, 4th Floor, Los Angeles, CA 90012 for further processing.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:DL:WLD
CEM:MS:hd

Attachment

c: County Counsel
Auditor-Controller
Internal Services Department
Sheriff Department
Fire Department
Probation Department

**CATEGORY 5 MASTER COST RECOVERY AGREEMENT
BETWEEN
USDA, FOREST SERVICE, ANGELES NATIONAL FOREST,
AND COUNTY OF LOS ANGELES**

This agreement is entered into between the UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE, ANGELES NATIONAL FOREST (the Forest Service), and the COUNTY OF LOS ANGELES under 36 CFR 251.58.

A. RECITALS

1. In 2009, the Forest Service accepted the applicant's applications for use and occupancy of National Forest System lands (hereinafter "the applications"), which are enumerated in Appendix A. The Forest Service shall assess the applicant a cost recovery fee for the agency's costs to process the applications.

2. The proposed use involves multiple phases of development or the applicant has submitted a group of applications or similar applications for a specified geographic area. Therefore, the fee for processing the applications falls within category 5 under the applicable Forest Service processing fee schedule and/or the fee for monitoring the applicant's special use authorizations falls within category 5 under the applicable Forest Service monitoring fee schedule.

3. The geographic area to be covered by this agreement includes the 3 Districts (Los Angeles River Ranger District, Santa Clara/Mojave Rivers Ranger District, and San Gabriel River Ranger District) on the Angeles National Forest, Southern California.

4. In signing a master agreement for a major category application submitted or authorization issued under authorities other than the Mineral Leasing Act, the applicant waives the right to request a reduction of the processing or monitoring fee based upon the reasonableness factors in 36 CFR 251.58(c)(1)(ii)(A) or (d)(1)(ii)(A). Therefore, the Forest Service is entitled to recover its full actual costs for all major category applications or authorizations covered by this master agreement.

5. Payment of a processing fee by the applicant does not obligate the Forest Service to authorize the applicant's proposed use and occupancy. If a major category application is denied or withdrawn in writing, the applicant is responsible for costs incurred by the Forest Service in processing the application up to and including the date the agency denies the application or receives written notice of the applicant's withdrawal. If the applicant withdraws a major category application, the applicant also is responsible for any costs subsequently incurred by the Forest Service in terminating consideration of the application.

6. The Forest Service shall determine the appropriate level of environmental analysis for each application which is enumerated in Appendix C and inform the applicant prior to initiating the environmental analysis.

7. Information associated with this agreement may be released to the public in accordance with the provisions of the Freedom of Information Act and Privacy Act.

B. BASIS FOR PROCESSING FEES

Processing fees for the applications are based upon the direct and indirect costs that the Forest Service incurs in reviewing the applications, conducting environmental analyses of the effects of the proposed use, reviewing any applicant-generated environmental documents and studies, conducting site visits, evaluating the applicant's technical and financial qualifications, making a decision on whether to issue the authorizations, and preparing documentation of analyses, decisions, and authorizations for the applications. The processing fee for the applications shall be based only on costs that are necessary for processing the applications. "Necessary for" means that but for the applications, the costs would not have been incurred. The processing fee shall not include costs for studies for programmatic planning or analysis or other agency management objectives, unless they are necessary for processing the applications. Proportional costs for analyses, such as capacity studies, that are necessary for the applications may be included in the processing fee.

C. AGREEMENT

In consideration of the foregoing, the parties agree as follows:

1. Scope of Work. The Forest Service shall develop a scope of work for processing the applications and an estimate of the agency's costs to process the applications, which will be incorporated into this agreement as Appendix B. This scope of work shall report direct costs in categories that correspond to those in the agency's accounting system, e.g., job code, personnel compensation based upon the cost to the government (salary and benefits), travel, and other direct services, materials, and supplies. In addition, the estimate of the agency's processing costs shall include the agency's indirect costs based upon the approved annual indirect cost rate. Classification of costs as direct or indirect shall be in accordance with the published Forest Service budget for the applicable fiscal year.
2. Environmental Analysis. The Forest Service shall supervise the preparation of the environmental analysis associated with the applications in compliance with applicable legal requirements, including public review of the analysis, analysis of public comments, and decision documentation. In exercising this responsibility, the Forest Service shall endeavor to foster cooperation among other agencies involved in the process, and to integrate National Environmental Policy Act requirements and other environmental review and consultation requirements to avoid, to the fullest extent possible, duplication of efforts by those agencies. However, the Forest Service shall not delegate to any other agency its authority over the scope and content of the environmental analysis, or approval or denial of the applications.
3. Billing. The Forest Service shall bill the applicant prior to commencement of work. The applicant agrees to pay the estimated annual processing fee of \$14,000 and a subsequent quarterly estimated processing fee of \$x for the first 12 months a total of \$x. The initial bill for estimated processing fee is attached.
4. Payment. The applicant shall pay the initial estimated processing fee and any subsequent estimated processing fee within 30 days of the date the bill for the fee was issued. The Forest Service shall not initiate processing the application until the initial estimated processing fee is paid. If the applicant fails to pay the initial or any subsequent estimated processing fee or the fee is late, the Forest Service shall cease processing the application until the fee is paid.

5. Statement of Costs. The Forest Service shall annually report costs incurred for processing the applications by providing a financial statement from the agency's accounting system to the applicant.

6. Underpayment. When the estimated processing costs are lower than the final processing costs for the applications, the applicant shall pay the difference between the estimated and final processing costs within 30 days of billing.

7. Overpayment. If payment of the processing fee exceeds the Forest Service's final processing costs for the applications, the Forest Service shall either (a) refund the excess payment to the applicant or, (b), at the applicant's request, shall credit it towards monitoring fees due.

8. Disputes

a. If the applicant disagrees with the processing fee category assigned for a minor category or, in the case of a major processing category, with the estimated dollar amount of the processing costs, the applicant may submit a written request before the disputed fee is due for substitution of an alternative fee category or alternative estimated costs to the immediate supervisor of the authorized officer who determined the fee category or estimated costs. The written request must include supporting documentation.

b. If the applicant pays the full disputed processing fee, the Forest Service shall continue to process the applications during the supervisory officer's review of the disputed fee, unless the applicant requests that the application processing cease.

c. If the applicant fails to pay the full disputed processing fee, the Forest Service shall suspend further processing of the application pending the supervisory officer's determination of an appropriate processing fee and the applicant's payment of that fee.

d. The authorized officer's immediate supervisor shall render a decision on a disputed processing fee within 30 calendar days of receipt of the written request from the applicant. The supervisory officer's decision is the final level of administrative review. The dispute shall be decided in favor of the applicant if the supervisory officer does not respond to the written request within 30 days of receipt.

9. Lack of Administrative Appeal. A decision by an authorized officer to assess a processing fee or to determine the fee category or estimated costs is not subject to administrative appeal. A decision by an authorized officer's immediate supervisor in response to a request for substitution of an alternative fee category or alternative estimated costs likewise is not subject to administrative appeal.

10. Amendment. Modifications to this agreement shall be made in writing and shall be signed and dated by both parties.

11. Expiration and Termination. This agreement expires in 2019, 10 years after the signature/adoption date on page 4. Either party, in writing, may terminate this agreement in whole or in part at any time before it expires. The applicant is responsible for all Forest Service costs covered by this agreement that are incurred up to the date of expiration or termination.

12. Principal Point of Contact. The Forest Service and the applicant shall each establish a principal point of contact for purposes of this agreement.

The Forest Service's contact is Michael McIntyre, Ranger, Los Angeles River Ranger District, tel 818 899 1900.

The applicant's contact is Maurice Salama, Principal Real Property Agent, County of Los Angeles, tel 213 974 4157

This agreement is accepted subject to all its terms and conditions.

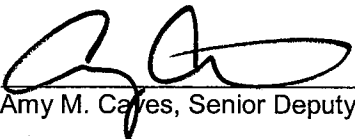
County of Los Angeles

ATTEST:
Sachi A. Hamai
Executive Officer Clerk
Of the Board of Supervisors

By: _____
Don Knabe, Chairman

By: _____
Deputy

APPROVED AS TO FORM:
Robert E. Kalunian
Acting County Counsel

By: 
Amy M. Cayes, Senior Deputy

USDA – Forest Service

Date

By: _____
Michael McIntyre, Ranger
Los Angeles River Ranger District

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

APPENDIX A
Applications and Authorizations Subject to this Agreement
County of Los Angeles

Applications for new minor Category 5 projects, in addition renewals and/or amendments to Permits

Including but not limited to:

Roads or Trail Authorizations – Linear Rights Of Way
Water Storage Tanks/Pipelines
Sheriff's Department
Probation Department
Communication Sites
Fire Department

Major Category 6 projects to be handled through separate Cost Recovery Agreements.

In particular on the:

Los Angeles River Ranger District to begin with Camp Karl Holten, Mt Disappointment request, 5 expired Communication Site Permits and consolidation of 10 no expiry dates Linear Right of Way Permits and 9 no expiry dates Water Storage Tanks Permits; and

San Gabriel River Ranger District and Santa Clara Mojave Rivers Ranger District urgent requests.

See Exhibit A for list of County of Los Angeles Permits with Angeles National Forest

There are about 150 permits with Los Angeles County (excluding Flood Control District) which includes 15 expired permits and 142 permits with no expiry date. The total number of County of Los Angeles permits with Angeles National Forest is about 190.

There are about 33 permits with Los Angeles County Chief Executive Office which includes 6 expired permits and 22 permits with no expiry date.

APPENDIX B
Scope of Work
County of Los Angeles

Project types to be included, but not limited to:

Construction/reconstruction Projects
 Operations and Maintenance
 Expired Permits to be renewed - see Exhibit A
 Old permits with no expiry dates which require refreshing and renewing - see Exhibit A
 Permits requiring amendments

This matrix indicates the annual time spent and probable cost.

Specialist	Days	\$ Cost	Responsibility
Lands/Case Manager/Permit Administrator	30	8,387	
Cost Reviewer/Database	1.5	419	SUDS records, billing, cost tracking
Biologist	2	783	Animal Review
Botanist	2	663	Plant Review
Hydrologist	0.5	219	Water Review
Other Specialist	0.5	249	Air Review
Archaeology/Cultural Resources	5	1920	Heritage
Engineering	<1.0	323	
Sub - Total	28	\$12,963	
Add Burden Rate 8%		1037	
Grand Total - Annual		\$14,000	
Grand Total - Quarterly		\$3,500	

APPENDIX C
Environmental Analysis
County of Los Angeles

Environmental analysis required: to be determined after resource surveys and reports and land management plan consistency reviews are completed. This includes but not limited to negative impacts on the following:

1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest sensitive species.
2. Flood plains, wetlands, or municipal watersheds.
3. Congressionally designated areas, such as Wilderness, Wilderness Study areas, or National Recreation Areas.
4. Inventoried road less areas.
5. Research Natural Areas.
6. American Indian and Alaska Native religious or cultural sites
7. Archaeological sites or historic properties or areas.